

Perspective on the Immorality of Honor Killings – A Review Article

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Abstract

The killing of a family member, when the offenders believe that the victim's activities have resulted in immense dishonor to the family or community is called honor killing or shame killing. The absence of systematic data collection in most countries has resulted in lack of clarity on the judicial approach and its consequences, with many of the killings being reported falsely as suicides or accidental deaths by the families. Honor killings are prevalent all over the world, with the majority of them happening in the Asian countries, closely followed by the Middle East and South Asia regions. This review article attempts to analyze the present legal status of honor killing in the country of India, predominantly in the southern states. The sensational killing of a Dalit youth, Gokulraj in 2015 found in the company of a girl belonging to the Gounder community at a temple in Tiruchengode, sent shock waves across the state. Another prominent case occurred in the state of Tamil Nadu, where the marriage of Ilavarasan – a Dalit youth from Dharmapuri to a Vanniyar girl from Sellangottai, evoked deep conflicts in 2013, that led to the former's body lying on a railway track. With the ideals of 'honor' and 'disgrace' being deeply rooted in the Indian mindset, the laws alone will not suffice to curb such forms of violence and it has to be addressed as a sociological issue.

Key Words: Honor Killing, Khap Panchayat, Dalit, Vanniyar

Introduction

About The Crime

The killing of a family member, when the offenders believe that the victim's activities have resulted in immense dishonor to the family or community is called honor killing or shame killing. The reasons for this usually include events such as inter-caste marriages involving a caste hierarchy, refusing an arranged marriage, illicit relationships, separation from spouse, etc. These offences, are considered to be as misdeeds

or insults against the family, their traditions and social customs.

The victim's family members, most commonly men who believe they have been disgraced, are generally the perpetrators of honor violence. However in certain cases the men could also be victims of honor killings. Honor killings need not always be carried out by the family alone but may also be ordered by the community leaders or tribal councils.

The perpetrators justify the act on the basis that it was an act to uphold the honor of the family which was otherwise tainted by the behavior of the victim. It stems from strong religious and cultural principles that the perpetrators are taught by the elders in their family.

Although they bear a resemblance to domestic violence in terms of the most common perpetrator and victim, honor killings are culturally deep-seated. [1]

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Global Scenario

The absence of systematic data collection in most countries has resulted in lack of clarity on the judicial approach and its consequences, with many of the killings being reported falsely as suicides or accidental deaths by the families. Honor killings are prevalent all over the world, with the majority of them happening in the Asian countries, closely followed by the Middle East and South Asia regions. According to an estimation done by the United Nations in the year 2000, an estimated 5,000 women are honor killed each year. [2]

Honor Killings In India

India is renowned for its high incidence of honor killings. The extent of the gruesome crime varies from state to state, with it being more common in the states of Punjab, Delhi, Rajasthan, and Bihar, largely due to the presence of 'Khap Panchayats' or 'Caste panchayats'. Tamil Nadu has become another epicenter of these crimes with increasing occurrence over the years.

Being a multicultural society, with variegated beliefs and faith forming the crux of every domain, honor crimes cut across all boundaries of caste, creed, class, religion, wealth and nationality.

Aim

To analyze the present legal status of honour killing in the country of India, predominantly in the southern states

Materials and Method

Primary sources – Cases in which post mortem was performed by the authors.

Secondary Sources – An extensive search was conducted from databases of valid studies to

explore the incidence, causes and approaches to honor crimes and a detailed analysis of the same has been made in order to reach conclusive results and emphasize on the necessity for a proper legal framework.

Causes and Method

There is no one specific cause for honor killing to occur and there are numerous, that interact with one another which include the following. Refusing an arranged marriage or marrying by own choice puts the family at the risk of "disgrace" such as in the case of a

21 year old girl in Delhi, who was strangled to death in November 2014, for an inter-caste marriage, by her parents, in whose eyes, the act had destroyed the family's prestige. [3]

1. Divorce: The woman is shamed for public display of her marital problems through attempting to obtain a divorce from her husband, especially when the marriage is arranged and involves dowry

2. Fear of Ostracization and isolation of a family by the society when allegations and rumors are set afloat about a female member.

3. Immodest dressing, which is beyond the norms of the society

4. Victim of Sexual offences: They are often considered impure and are believed to have brought upon dishonor to the family, especially if the victim gets pregnant. [4] Central to it is the misconception associated with the virginity of a woman where it is considered to be a property of her father gifted to her husband.

5. Heterosexual acts and non-sexual relationships out of marriage are perceived in the same light.

6. Homosexuality is another major factor thought to have brought dishonor to the family. This is considered to be more a crime when it is between two women. There is evidence to show that homosexuality is perceived to be ground for honor killing as seen with the killing of the Homosexual Turkish student Ahmet Yildiz in 2008.

Why Is Honor Killing Prevalent?

1. Patriarchal Society :

Every action of a woman is linked to the honour of her family which are hence controlled largely by the male members. Lack of respect for the choices and individuality of a woman is a contributory factor.

2. Caste System:

India is a country which is diverse not only in its culture but also in the number of castes that exists. The superior or inferior status of an individual is decided by the caste that one belongs to. Hence marrying someone outside of the caste is considered to be a big crime and a dishonour to the family. [5]

In connection with this there has been a Supreme court observation in the Latha Singh v. State of Uttar

Pradesh (2006) 5 SCC 475, which says that honor killings are basically cold blooded murder and that there is no honor in such acts. It also observed that in order to strengthen the social fabric, more of inter-caste and inter-religious marriages should be encouraged.

3. Khap Panchayats:

A community especially found in villages and in Northern India is the Khap Panchayats which is seen to exert a social influence within the community. These people take law in their own hands and mollycoddle in activities that are not only offensive, but that, which could endanger the personal lives of persons marrying according to their free will.

Courts have provided a number of judicial decisions against the wrong doings of the Khap Panchayats. One such decision was provided in the landmark case of Smt Laxmi Kachhwaha v. the State of Rajasthan (1999). A Public Interest Litigation was filed against the illegal functioning of Khap Panchayat in the Rajasthan High Court citing the reason to be violation of an individual's basic rights. The Court ordered State authorities to restrict the functioning of such Panchayat and also see to it that members of the said Panchayat be arrested and punished. In another case of Arumugam Servai v. State of Tamil Nadu (2011), the Apex Court was of the opinion that once a person becomes a major, it is his/her will to decide about the person they want to marry.^[6]

4. Inadequate education and lack of awareness leading to lack of sensitisation against the problem

5. Absence of stringent enforcement of laws :

Despite the increasing incidence and public outrages over the crimes, there exists no legal recognition, no protection offered to self-choice couples, no measures for the prevention and control of such barbaric acts and no punishment. Currently the crime is only reported as – Murder (section 302 of Indian Penal Code) and Culpable Homicide (Section 304 IPC). In 2015 there were 251 honour killing cases registered in the country a huge increase from what it was in 2014 of 28 cases.^[7]

LEGAL ASPECTS:

EFFECT ON CONSTITUTIONAL PROVISIONS:

This heinous crime is known to violate multiple provisions of the Constitution and basic human rights. Rights that are violated included those under Article

14(Right to Equality), Article 15(1) and (3) (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth), Article 17(Abolition of Untouchability), Article 19(1) (freedom to speech and expression) and Article 21(right to life and personal liberty).

Considering Article 39(a) of The Directive Principle of State Policy (DPSP) , which makes it imperative for the State to secure the livelihood of all citizens, honor killings seem to deprive the victims of their very lives. Many young couples are put in a dangerous environment and exploited of their lives.

Legislations:

1. Indian Majority Act, 1859: According to by Article 21 -Right to marry is a constitutional right. A person, who is the citizen of India attains age of majority after completion of 18 years under Section 3 of Indian Majority Act, 1857. Once majority is attained the individual can decide to marry the person of their choice. The laws do not prohibit inter- caste, inter-community or inter-religious marriages which are common triggers for honor crimes.^[8]

2. Special Marriage Act, 1954: According to this act, any citizen of India including those living outside of India can marry irrespective of religion, caste or faith of the parties. The act aims to provide a special form of marriage for this purpose.

3. Protection of Human Rights (Amendment) Act, 2006: This act guarantees access to legitimate legal and fundamental rights.

4. Domestic Violence Act, 2005: Preventing a woman from marrying a person of her choice amounts to emotional abuse.^[9]

5. **The scheduled castes and scheduled tribes (Prevention of Atrocities) Act, 1989** - Most honor killings occur in relation to the Scheduled castes as they are considered to be one of the lower most castes in the hierarchy of castes. Any dishonorable acts against individuals of these castes are punishable under this act.

International Laws and their Applications:

Honor killing is prevalent not only in India but also places outside of it. The crime encroaches upon the Universal Declaration of Human Rights, 1948.^[10] According to the Article 1 & 2 of the Convention, “all human beings are born free and equal in dignity and

rights.” Article 3 states that” everyone has right to life, liberty and security”. Article 16 of the declaration gives all individuals who have attained majority , the freedom to choose the person to marry without any restraint due to religion, race or nationality.^[11]

India, being a signatory to the United Nations Convention on Elimination of all forms of Discrimination against Women (CEDAW 1979), is legally bound to enact policies and laws to alleviate all forms of honor killings and abolish gender based violence on women.^[12]

Judicial Approach

The approach to meeting out justice in the case of honor crimes has undergone a gradual change as reflected by the judgements and judicial trends with punishments being targeted at violation of the Constitution.

The Karnal District Court meted out justice to the deceased victims of the cruel act, Manoj and Babli, that eloped and married in June 2007. Five perpetrators were executed and the Local “Khap” (Caste based Council) head was given a life sentence.^[13]

The Supreme Court, in yet another judgement, described honor killings as threats or acts of harassment that are wholly illegal and attract severe punishment. The Division Bench expressed its concern over the consequences of inter-caste marriages, in the famous *Lata Singh vs State of U.P. and Anr* case, wherein it stated that

“Once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage.”^[14]

A parallel can be drawn to the case of *Jyoti Alias Jannat and Anr vs State of UP and others*, where the importance of the Indian Majority Act was reinstated.^[15]

The sensational killing of a Dalit youth, Gokulraj found in the company of a girl belonging to the Gounder community at a temple in Tiruchengode , by the President of the Dheeran Chinnamalai Peravai, a Kongu- Vellalar

caste-based outfit in 2015 sent shock waves across the state when Tiruchengode DSP Vishnupriya was found dead. Post mortem examination of the victim by one of the authors of this article revealed that the possibility of a homicide could not be ruled out.

Another prominent case occurred in the state of Tamil Nadu, where the marriage of Ilavarasan – a Dalit youth from Dharmapuri to a Vanniyar girl from Sellangottai, evoked deep conflicts in 2013, that lead to the former’s body lying on a railway track. Though an author of this article who performed autopsy in this case gave evidence for a homicide, it is still undergoing a series of trials.

Conclusion

The alleviation of social evils such as honor killings is a multi-step process requiring equal gender relations to be established. A state’s asset is it’s citizens and safeguarding the same by preventing the violation of human rights, offering them protection and the necessary opportunities for the oppressed to seek support and aid, is hence it’s prime responsibility.

An efficient legal framework, stringent actions and effective enforcement alone cannot accomplish the task. Instead, every realm– social, economic, cultural and political will have to be sensitized to the ill-effects of the gory act to tackle the problem at hand by analyzing from all angles.

With the ideals of ‘honor’ and ‘disgrace’ being deeply rooted in the Indian mindset, the laws alone will not suffice to curb such forms of violence and it has to be addressed as a sociological issue.

The CEDAW convention believes in enforcing stringent laws against such heinous crimes. Due to certain loopholes in the law, some perpetrators escape even though most of them are punished.

Recommendations:

1. Systematic data collection
2. Improving service provisions for men due to the neglect of male victims.
3. Stringent laws with an effective framework should be enforced immediately deal exclusively with honor killings.
4. Change has to be brought in the mind set of

the people and for this awareness should be created. Stress should be given on the fact that honor killing is a punishable offence and those committing it should be punished severely.

5. Propaganda about the caste systems should be reduced

6. Khap panchayats should be abolished completely as they do not have any legal recognition

7. Education plays a pivotal role in preventing deaths caused by a lack of awareness amongst people belonging to the poorer socio-economic strata.

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